

REMARKS

By the foregoing amendment, applicant has canceled all of the nonelected claims of Group II, method claims 47-90 and 94-96. Accordingly, the title has been amended to eliminate reference to these methods and the portions of the summary of the invention that related to the cancelled method claims have been deleted. Other minor grammatical and typographical errors in the specification have been corrected.

Claims 91 (second occurrence) and claims 92 and 93 dependent thereon have been canceled to resolve the double numbering error and reintroduced as claims 123-125.

Also, new claims 106-122 variously dependent on the independent claims 126, 91, 97, 100 and 101 have been added.

Reconsideration of the rejection of claims 1-46, 91-93 and 97-106 under 35 USC 102 as being anticipated by McIntyre et al. is respectfully requested for the various reasons set forth below.

Generally, all of claims 1-101 specify a brewer with control system, having, inter alia, "a plurality of hidden switches", while the McIntyre et al. ATM machine has no switches. Instead, teaches that function switches should be eliminated and replaced by a liquid crystal display screen 12 with an overlying touch pad 13. The touch pad has no function switches, and the liquid crystal display has no function switches. The touch pad 13 merely senses touch events and generates coordinates of the touch location to a touch pad controller 16. *"Touch pad controller 16 is programmed to receive this x,y coordinate data and determine if the coordinates of the touch corresponds to a defined hot spot region. If so, the touch is considered a touch event and touch pad controller 16 sends to application processor 15 a message which identifies which of the defined hot spots corresponds to the touch event."* [col. 5, lines 38-46] The application processor 15 selectively assigns different data entry information or function selection information associated with the different hot spots and takes corresponding action when a touch event at the associated hot spot is detected. The application processor also causes the LCD display to show different pictorial representations of data entry or function associated with the hot spots corresponding to the particular data entry value or function assigned to the hot spots.

Such touch pads as used in McIntyre operated by generating an electromagnetic field and the location of a touch is determined by the location of a disturbance in the field. They do not use switches. The touch detection may be an RF field, and IR field, a resistive field, or any other field that is capable of detecting touch through a medium. In common computer parlance, the hot spot locations identified by the display are "soft keys", because their appearance and function are entirely determined by software. The primary advantage of the soft keys over the use of a plurality of switches, or a so-called touch pad with switches such as used in applicant's invention is that the soft keys may be reprogrammed, new ones added or old ones removed, or relocated, and their respective functions changed, entirely through the use of software. Such software changes of display of the functions and locations of soft keys have not been possible with switch touch pads that employ switches and control panels with fixed displays of switch locations, such as described with reference to the switch touch pad 24 described with reference to the coffee brewer control panel Fig. 5A of Burke et al. As described in which the *"touch pad 24 is a double coated moisture resistant board with switches and a numeric display, designed to have a decal adhered to the front identifying the use of the switches and numeric display."* [Burke et al. at Col.3, lines 52-56]

The switch touch pad shown and described in Burke et al. is the same type of switch touch pad described at page 5 of the specification of the present application, at which it is stated:

"While some control panels have regular push-button switches of the type that protrude through a flat rigid panel, others are known which employ a so-called touch pad assembly. The touch pad assembly employs a sheet of flexible plastic, or "touch pad" that has touch pad switches. The membrane switches are actuated by manually pressing certain switch locations of the touch pad. The touch pad is outwardly marked with the location of all the different switches beneath, and these switch locations are provided with a graphic or other indication of the function associated with the switch location. These graphics or words or letters remain visible even though the switch itself is disabled either permanently, due to disablement associated a particular mode selection, or relatively temporarily disabled in accordance with changing conditions during a brew cycle as noted above."

Despite their versatility advantages, because of the hot, steam-laden and moist atmosphere to which control panels for coffee brewers are subjected, it is not believed that the switchless, or field-disturbance-type, programmable touch pads, such as shown in McIntyre and Silva et al., are not suitable for use with coffee brewers.

The coffee brewer of applicant's invention address the problem of how to change displays of switch locations on a switch-type touch pad used with a hot beverage brewer through the use of software. This problem is not addressed in McIntyre et al. because in the ATM of McIntyre et al. there are no switches and there are no fixed display overlays identifying the switch locations. Therefore, it is not possible for McIntyre et al. either show or suggest any aspect of the present invention.

Since there are no switches whatsoever in McIntyre et al., there can be showing or suggestion of hidden switches, as specified. Moreover, because the data entry/function "buttons" are merely changeable graphic displays of buttons, the "buttons" are either shown on the display screen or they are not. When they are being displayed, they are not being hidden. Since the "buttons" are merely transient display elements, when they are not being displayed, they cease to exist. If they cease to exist when they are not being displayed, the display buttons are not and cannot be hidden. It is logically not possible to hide something that does not even exist. Therefore, the display buttons of McIntyre cannot suggest the hidden switches of the present invention. Additionally, even if it were assumed, solely for purposes of argument that the display "buttons" in McIntyre et al were actual switches, there still wood be no showing or suggestion. of "hiding" them.

These claims also specify a beverage brewer and not merely an entry display of an ATM. It is a beverage brewer or other food processing apparatus that is being claimed with the performance of various brewing or other physical processing functions being performed and not merely the electronic transfer of data. Because the field-type touch pad and LCD screen of McIntyre et al. are not suitable for use in the relatively harsh environment of a beverage brewer or food processor, McIntyre et al. does not fall within the same field of the invention to which a person of ordinary skill in the art of beverage brewing and food processing equipment would look. McIntyre is therefore neither relevant nor material to the issue of allowance of the present claims. Moreover, not only is a beverage brewer specified, the structural and functional elements of the brewer that

are relevant to the invention have also been defined in the claims. These structural features are shown in, and described with reference to, Figs. 1 and 12A-12D and are specified in the claims. Accordingly, the claims cannot be properly rejected based on the assertion that the claims are without structure limiting them to a beverage brewer or food processor. The fact is that there are structural brewer elements and other structural elements specified in the claims that are entirely lacking from the ATM of McIntyre et al. is another reason why the claims are not anticipated by McIntyre et al.

Specifically, independent claim 1 is not anticipated by McIntyre et al., because the ATM of McIntyre et al. lacks each of (1) a plurality of switches, (2) a plurality of hidden switches, and (3) switches associated with operator selectable brewer functions. Items (1) –(3) have been explained above.

Additionally, Claim 1 is not anticipated by McIntyre because McIntyre lacks, (4) means for preselecting different modes of operation, and (5) a controller with means for selectively revealing only preselected ones of the hidden function switches to an operator in accordance with the different preselected modes of operation. With reference to item (4) it is clear that the ATM only has one mode of operation which is to receive inputs relating to financial information from the user and to convey them to the ATM computer to provide the user with different displays depending upon the inputs received. There is not one mode of operation in which the unit is an ATM machine and another mode of operation in which it is a stud poker playing machine and another mode in which it is merely a calculator and another mode in which it is an electronic telephone. Different displays to the user are all associated with the one and only ATM mode. A review of the patent has not revealed the use of the word "mode" or any synonymous word, and if there is any description of different modes of operation of which the examiner is aware, a precise citation would be appreciated. The presentation of different displays cannot correspond to the different modes of claim 1, because the changes to the display are performed in response to inputs from the user and are not preselected as specified in claim 1. Even if it is assumed, for purposes of argument, that each new screen corresponds to a different mode of operation, it is still clear that the different modes are not preselected. Because there are no switches or even switch locations being hidden in the McIntyre et al. ATM, there can be no revealing preselected ones of the switches.

Because all changes to the display are immediately the result of current inputs or selections by the user, there can be no preselected ones of the switches that are revealed. Because there are no different modes of operation or different modes of operation that are preselected, there can be not suggestion of revealing only preselected ones of the hidden function switches in accordance with the different preselected modes of operation.

Claims 2-25 are dependent on claim 1, and are believed allowable for the same reasons set forth above. These claims specify additional features and structure that are also lacking from McIntyre et al. and are therefore believed allowable for additional reasons.

Claims 2-4 specify that the different operator selectable brewer functions include the function of starting brew cycles for making different quantities of beverage, and claim 4 additionally specifies means for selecting more than one of the different modes of operation. Both of these features are entirely lacking from McIntyre et al.

Claim 5- 11 specifies that there are other hidden switches that may be selectively revealed regardless of the different preselected modes of operation, while in McIntyre et al. each different screen apparently displays all of the display elements associated with the screen without exception. It does not appear that two screens are not shown at one time, and thus it is not possible for McIntyre et al. to anticipate these claims for this additional reason. Moreover, claims 9, 10 and 11 variously specify a hidden message display relating to making preselections of the different modes of operation and means for selectively revealing the message display when need for preselecting the different modes, while McIntyre et al. lacks the capability to make any preselections, has no selectively hidden message display, and has no display that relates to making preselections of different modes of operation.

Claims 12 and 13 specifies that the control panel of the brewer of claim 11 includes another brewer function switch that is revealed regardless of the operating mode that has been preselected and the controller includes means for revealing the message display only when there is a message to be displayed, and claim 13 specifies the means for enabling the message display to be revealed includes another hidden function switch that is revealable regardless of the different modes that have been preselected, while McIntyre et al. lacks anything even remotely suggestive of such features.

Claims 14-18 specify that the controller includes means for selectively revealing at least another hidden function switch associated with a plurality of different brewer functions such as hot water dispense function in response to a change in operating conditions of the brewer and independently of the different modes of operation. Again, there are no corresponding features shown in McIntyre et al.

Claim 19 has been amended to correct a grammatical error and specifies that the plurality of hidden function switches are respectively associated with starting of a plurality of different brew cycles associated with a plurality of different quantities of beverage to be brewed, and the controller includes means for selectively revealing only the preselected one of the hidden function switches when a brew cycle is not already in progress. Obviously, even if McIntyre et al. had a plurality of function switches, of which there are none, there is nothing that could possibly show or suggest selectively revealing a preselected start brew switch only when a brew cycle is not already in progress. Thus, McIntyre et al. cannot possibly provide a basis for rejection under 35 USC 102.

Claims 20 dependent on claim 1 and claims 22-25 dependent variously on claim 20 specify numerous features that are lacking from, and counter-suggested by, McIntyre et al. A liquid crystal display with an associated touch pad, teaches away from a partially translucent panel through which the hidden function switches may not be seen except when associated lights visible through the panel are lit. Clearly, there can be no suggestion of a flexible panel through which push button switches may be actuated by moving the flexible panel---liquid crystal displays are not flexible and neither is the touch pad. There is obviously no showing of push button switches with means for carrying associated lights that are selectively energized to reveal the location of the push button switches. There are no light emitting diodes or incandescent light bulbs.

Independent claim 26 and claims 27-46 dependent thereon are also not anticipated for many reasons in addition to those set forth above. Again, Claim 26 specifies a plurality of hidden function switches that are associated with a plurality of different operator selectable brewer functions, while McIntyre et al. lacks both hidden function switches and the touch pad is only useful for selecting functions associated with an ATM and has no association with either a brewer or operator selectable brewer functions. There are no different phases of brewer operation shown and there is no

controller for selectively revealing the hidden switches because there are no hidden switches to reveal; the selection locations on the touch pad are either present or not, but they are never hidden.

With regard to the claims variously dependent on independent claim 26 there are numerous other features or elements that are lacking from McIntyre et al. For example, (a) there is no suggestion of revealing control switches of a brewer when the operating status of the brewer is other than a brewing-in-process status; (b) there are no switches associated with a brewer power on function, a stop brew cycle function, a water dispense function or a start brew function; (c) there is no function selection switch that is also capable of being used for inputting programming information; (d) the LCD is always displaying messages and even when it is not, it does not become hidden except when selectively revealed; (e) there is no brew stop function switch or any suggestion of means for only displaying an emergency stop brew function when a brewer is in a brew cycle, etc. Also, an electronic field touch pad has neither a push button switch or a flexible panel and the touch pad is not flexible so that the push buttons may be pushed through the translucent panel. Again, there are no LEDs or incandescent light sources. Therefore, none of the claims 26-46 are shown or suggested by McIntyre et al. and the rejection of these claims on the basis given is without support and should be withdrawn.

Independent claim 91 and claims 123 and 92-93 dependent thereon, specify a food processing apparatus with many of the distinctive features noted above and is, therefore, also allowable. The including switches hidden behind a translucent panel, a plurality of associated lights and means for selectively energizing the lights to reveal the switches through the panel.

Independent claim 97 is allowable for the same reasons set forth above generally and with respect to claim 91. In addition, the claim specifies an exterior side of the translucent panel for engagement by an operator with a tactile code associated with at least one of the plurality of switches, which is entirely lacking in McIntyre et al. Claims 98 and 99 in addition specify the tactile code is formed by embossment formed on the exterior side of the operator control panel and that the code is a Braille code, additional features that are lacking from McIntyre et al. Independent claim 100 likewise specifies

the presence of a tactile code and is allowable for the same reasons set forth with respect to claim 97.

Independent claim 101 is allowable for the reasons set forth above generally including the specification of a plurality of lights associated with the plurality of hidden function selection switches. In addition, the apparatus is specified as including a demonstration mode in which the heating element and all the plurality of valves are disabled from operating in response to actuation of the hidden function switches but in which the controller operates otherwise substantially the same in response to actuation of the function selection switches and the computer program stored in the controller. Obviously, McIntyre et al. lacks heating elements or valves being controlled or a demonstration mode. Claim 101 should therefore be allowed.

Independent Claim 102 specifies a food processing apparatus including a heating element and a plurality of valves and means for selectively operating the apparatus for operation in accordance with a self-diagnostic program in which faults in the apparatus are detected and displayed that are obviously not shown in McIntyre.

Claims 103-105 are dependent on claim 102 and are allowable for additional reasons. Claim 104 specifies a plurality of switches that are selectively revealed by back-lights when in the normal operations program and means for disabling selected functions normally performed during normal operation of the apparatus when in the demonstration mode of operation while continuing to enable substantially all other normal operations of the apparatus including selective revealing of the hidden switches in response to the back-lights, while claim 105 specifies a self-diagnostic program, all of which are lacking from McIntyre et al.

The new claims 106-125 are variously dependent on the above claims and are believed allowable for the same reasons set forth above. These claims specify additional features that are lacking from McIntyre and therefore are allowable for additional reasons.

The references cited but not applied do not anticipate the claims and also fail to provide any distinctive elements missing from McIntyre et al.

Accordingly, reconsideration and allowance of all claims at issue are respectfully